

JURISDICTION

3. Paragraph 3 contains no statement of fact and therefore requires no admission or denial.

FACTS

4. Defendant lacks sufficient information to admit or deny the allegations set forth in Paragraph 4, and on that basis denies same.

5. Defendant lacks sufficient information to admit or deny the allegations set forth in Paragraph 5, and on that basis denies same.

6. Defendant denies the allegations contained in Paragraph 6.

7. Defendant denies the allegations contained in Paragraph 7.

8. Defendant denies the allegations contained in Paragraph 8.

9. Defendant denies the allegations contained in Paragraph 9.

CLAIM FOR RELIEF

10. Defendant responds to Paragraph 10 by incorporating by reference its responses to Paragraphs 1-9 as if set forth fully herein.

11. Defendant denies the allegations contained in Paragraph 11.

Defendant denies that Plaintiff is entitled to any of the relief requested in Paragraphs A through D of its Claim for Relief.

AFFIRMATIVE DEFENSES

First Affirmative Defense

1. The Complaint fails to state a claim upon which relief may be granted.

Second Affirmative Defense

2. Plaintiff is not the owner or author of the copyrights on which it bases this action.

Third Affirmative Defense

3. Plaintiff's claims are barred by the doctrines of consent, acquiescence, waiver and/or estoppel.

Fourth Affirmative Defense

4. Plaintiff failed to mitigate its damages, if any.

Fifth Affirmative Defense

5. Because Plaintiff does not own a valid copyright in the works in dispute in this action, this Court lacks subject matter jurisdiction over this action.

Sixth Affirmative Defense

6. The copyright registration on which Plaintiff has based this action is invalid.

Seventh Affirmative Defense

7. The pattern Plaintiff allegedly copyrighted is not eligible for copyright protection because it is in the public domain.

Eighth Affirmative Defense

8. The pattern Plaintiff allegedly copyrighted is not eligible for copyright protection because it does not contain original works of protectable expression.

Ninth Affirmative Defense

9. Plaintiff's claims are barred by the doctrine of fair use.

Tenth Affirmative Defense

10. Plaintiff's claims are barred by the doctrine of unclean hands.

Eleventh Affirmative Defense

11. Defendant has not engaged in any of the acts of infringement complained of by Plaintiff nor has Defendant violated any valid rights of Plaintiff.

Twelfth Affirmative Defense

12. The Defendant's accused pattern at issue is not substantially similar to the pattern under which Plaintiff claims protection.

RESERVATION OF DEFENSES

Defendant hereby gives notice that it intends to rely upon any other defenses that may become available or appear during the proceedings in this case and hereby reserves its right to amend its Answer to assert any such defense(s).

PRAYER FOR RELIEF

WHEREFORE, Defendant prays for a declaration and judgment in their favor against Plaintiff for the following relief:

- A. For an Order dismissing with prejudice Plaintiff's Complaint;
- B. For an award of attorneys' fees and costs incurred by Defendant in defending this Action; and
- C. For such other and further relief as this Court may deem just and proper.

Dated: November 15, 2010

Respectfully submitted,

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